

AMENDED IN SENATE APRIL 18, 2005

**SENATE BILL**

**No. 354**

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**Introduced by Senator Escutia**

February 16, 2005

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An act to add Section ~~57013~~ 57015 to the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 354, as amended, Escutia. Hazardous substances: brownfields ~~cleanup study~~; task force.

Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release. Existing law requires the administering agency to supervise the site investigation and remedial action conducted by the responsible party and, upon determining that the site investigation and remedial action has been satisfactorily completed, to issue a certificate of completion to the responsible party.

*This bill would require the Governor to appoint a Task Force on the Coordination of Site Cleanup Programs, which would be composed of specified persons with substantial experience with the actual redevelopment of brownfields properties from the public, private, and nonprofit sectors.*

*The bill would require the task force to provide information to the agency on implementing administrative improvements to the state's site cleanup oversight programs, and to make recommendations on how to best coordinate site cleanup oversight responsibilities within the agency.*

*The bill would require the agency to convene a meeting of the task force on or before September 15, 2006, and would require the task*

*force to submit recommendations to the Legislature and the agency on or before July 1, 2007. The bill would prohibit the agency from consolidating the site cleanup programs of the Department of Toxic Substances Control and the California regional water quality control boards until at least 90 days after the agency receives the task force's recommendations.*

*The bill would require these provisions to be implemented through existing state resources, would require the agency to provide staff support to the task force, and would allow the agency to apply for, accept, and spend any grants and gifts from any source, public or private, to implement the bill.*

~~This bill would require the agency to prepare and submit to the Legislature, by July 1, 2006, a study that includes specified information regarding the sites for which the Department of Toxic Substances Control or the California regional water quality control boards made a specified determination. The bill would require the agency to convene a brownfields steering committee composed of specified stakeholders and would require the study to include a recommendation by the committee determining whether the Department of Toxic Substances Control or the California regional water quality control boards would make the most efficient and effective lead agency.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 57013 is added to the Health and Safety~~
- 2     ~~Code, to read:~~
- 3     ~~SECTION 1. Section 57015 is added to the Health and Safety~~
- 4     ~~Code, to read:~~
- 5     ~~57015. (a) The Legislature finds and declares all of the~~
- 6     ~~following:~~
- 7     ~~(1) Real property contaminated with hazardous substances is~~
- 8     ~~a continuing blight on communities and the cleanup and~~
- 9     ~~development of these sites will lead to productive end uses,~~
- 10    ~~including job creation, new housing, and an increased~~
- 11    ~~community tax base.~~
- 12    ~~(2) The patchwork regulatory framework for site cleanup in~~
- 13    ~~California has created over 100 local, regional, and state~~

1 agencies that may serve as the regulatory agency responsible for  
2 overseeing environmental cleanup. California's framework of  
3 multiple agencies with overlapping jurisdictions has led to  
4 confusing and costly delays in the redevelopment of blighted or  
5 contaminated real properties.

6 (3) The Governor's California Performance Review  
7 recognized that "this fragmentation of responsibility and  
8 overlapping and duplicative authority is not without costs—to the  
9 public and to the state," and recommended that "the Governor  
10 should work with the Legislature to consolidate cleanup  
11 functions."

12 (4) The California Environmental Protection Agency should  
13 determine the most efficient and effective method for  
14 coordinating site cleanup oversight activity between the current  
15 programs.

16 (b) For purposes of this section, the following definitions shall  
17 apply:

18 (1) "Agency" means the California Environmental Protection  
19 Agency.

20 (2) "Task force" means the Task Force on the Coordination of  
21 Site Cleanup Programs established by the Governor pursuant to  
22 subdivision (c).

23 (c) The Governor shall appoint a Task Force on the  
24 Coordination of Site Cleanup Programs, which shall be  
25 composed of stakeholders with substantial experience with the  
26 actual redevelopment of brownfield properties from the public,  
27 private, and nonprofit sectors. The task force shall include, but  
28 not be limited to, a representative of one of, or a person who is  
29 one of, each of the following:

30 (1) A redevelopment agency or municipality.

31 (2) A private developer.

32 (3) A nonprofit developer.

33 (4) An environmental regulatory agency.

34 (5) An environmental land use attorney.

35 (6) An environmental engineer or scientist.

36 (7) A nonprofit organization specializing in brownfield funding  
37 and technical assistance.

38 (d) The task force shall provide information to the agency on  
39 implementing administrative improvements to the state's site  
40 cleanup oversight programs, and shall make recommendations,

1 *based on the information analyzed pursuant to subdivision (g),*  
2 *on how to best coordinate site cleanup oversight responsibilities*  
3 *within the agency.*

4 *(e) (1) The agency shall convene a meeting of the task force*  
5 *on or before September 15, 2006, and the task force shall submit*  
6 *its recommendations to the Legislature and the agency in the*  
7 *form of a written report on or before July 1, 2007.*

8 *(2) A majority of the task force shall constitute a quorum for*  
9 *the transaction of business.*

10 *(3) The task force shall be headed by a chairperson, selected*  
11 *by the task force from among its members.*

12 *(f) The agency shall not consolidate the site cleanup programs*  
13 *of the Department of Toxic Substances Control and the*  
14 *California regional water quality control boards until at least 90*  
15 *days after the agency receives the task force's recommendations*  
16 *pursuant to subdivision (e).*

17 *(g) In making recommendations on the coordination of site*  
18 *cleanup oversight responsibilities within the agency, the task*  
19 *force shall consider all of the following for each site cleanup*  
20 *oversight program within the agency:*

21 *(1) Consistency of cleanup standards and oversight process.*

22 *(2) Capacity and expertise of staff.*

23 *(3) Appropriateness of level of effort.*

24 *(4) Employment of institutional and engineering controls.*

25 *(5) Public notification and participation process.*

26 *(6) Frequency and nature of the conditions under which a*  
27 *completed removal and remedial action at a site may be subject*  
28 *to further administrative action.*

29 *(7) Length of time required to reach "cleanup complete"*  
30 *determinations.*

31 *(8) Total agency oversight costs.*

32 *(9) Appeals process.*

33 *(10) Compliance monitoring and enforcement.*

34 *(h) (1) The task force may consult with additional persons,*  
35 *advisory entities, and governmental agencies, as the task force*  
36 *determines necessary.*

37 *(2) The requirements of this section shall be implemented only*  
38 *through existing state resources. A member of the task force shall*  
39 *not receive any compensation related to the member's service on*

1 *the task force that is in addition to any compensation that the*  
2 *member receives from any other public or private source.*

3 *(3) The agency shall provide staff support to the task force,*  
4 *and, notwithstanding paragraph (2), may apply for, accept, and*  
5 *spend, any grants and gifts from any source, public or private, to*  
6 *implement this section.*

7 ~~—(a) The Legislature finds and declares all of the following:~~

8 ~~(1) Real property contaminated with hazardous substances is a~~  
9 ~~continuing blight on communities and the cleanup and~~  
10 ~~development of these sites will lead to productive end uses,~~  
11 ~~including job creation, new housing, and an increased~~  
12 ~~community tax base.~~

13 ~~(2) The patchwork regulatory framework for site cleanup in~~  
14 ~~California has created over 100 local, state, and regional agencies~~  
15 ~~which may serve as the regulatory agency responsible for~~  
16 ~~overseeing environmental cleanup. California's framework of~~  
17 ~~multiple agencies with overlapping jurisdictions has led to~~  
18 ~~confusing and costly delays in the redevelopment of blighted or~~  
19 ~~contaminated real properties.~~

20 ~~(3) The agency should determine the most efficient and~~  
21 ~~effective lead agency to oversee the cleanup of contaminated real~~  
22 ~~property, between the Department of Toxic Substances Control~~  
23 ~~and the California regional water quality control boards, and~~  
24 ~~should designate that agency as the state lead agency.~~

25 ~~(b) On or before July 1, 2006, the agency shall prepare and~~  
26 ~~submit to the Legislature a study to assist with the designation of~~  
27 ~~a lead environmental oversight agency for different types of sites,~~  
28 ~~which shall be completed before the administrative or legislative~~  
29 ~~consolidation of the site cleanup programs of the Department of~~  
30 ~~Toxic Substances Control and the California regional water~~  
31 ~~quality control boards. The study shall consist of the information~~  
32 ~~specified in subdivision (c) and the recommendation made~~  
33 ~~pursuant to subdivision (d).~~

34 ~~(c) (1) (A) The study shall include the total number of sites~~  
35 ~~for which the Department of Toxic Substances Control and the~~  
36 ~~California regional water quality control boards made a closure~~  
37 ~~determination or a no further action determination, whether~~  
38 ~~subject to conditions or not, between January 1, 2001, and~~  
39 ~~December 31, 2004.~~

~~(B) The study shall not include a site for which the review process consisted only of examining site investigation and other data, and resulted in a determination by the Department of Toxic Substances Control or the California regional water quality control boards that no further remedial work was required at that site.~~

~~(2) For each site listed pursuant to subparagraph (A) of paragraph (1), all of the following information:~~

~~(A) The quantitative cleanup levels that were required for soil and groundwater for all sites that were closed or that had removal, remedial, or other forms of cleanup plans approved by the Department of Toxic Substances Control or the California regional water quality control boards, with corresponding information whether the cleanup requirements were based on unrestricted or restricted future uses of the site.~~

~~(B) The institutional and engineering controls that remained in place when the site was redeveloped.~~

~~(C) The public participation process that was conducted before the redevelopment was approved, including any public participation required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that was conducted by a local land use agency or the Department of Toxic Substances Control to authorize redevelopment of the site.~~

~~(D) The formal reopening by the Department of Toxic Substances Control and the California regional water quality control boards of any approved site remedy or approved site closure based on public or other concerns, if the reopening resulted in a written order or other enforcement action requiring further site investigation or cleanup beyond that which was required by the agency that approved the site remedy or site closure.~~

~~(E) The length of time required for the Department of Toxic Substances Control and the California regional water quality control boards to investigate and oversee complete site cleanup for the site.~~

~~(F) The total agency oversight costs charged for the site.~~

~~(e) (1) The agency shall convene a brownfields steering committee, which shall be composed of stakeholders with substantial experience with the actual redevelopment of~~

1 ~~brownfields properties from the public, private, and nonprofit~~  
2 ~~sectors~~  
3 ~~(2) The study shall include a recommendation by the~~  
4 ~~brownfields steering committee, based on the information~~  
5 ~~analyzed pursuant to subdivision (b), determining whether the~~  
6 ~~Department of Toxic Substances Control or the California~~  
7 ~~regional water quality control boards would make the most~~  
8 ~~efficient and effective lead agency.~~

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